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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,401	12/08/2003	David J. Broel	11287	9772

7590 11/05/2004
Walter A. Rodgers
Rodgers & Rodgers
880 North Island Drive
Atlanta, GA 30327

EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,401

Applicant(s)BROEL, DAVID J. **Examiner**

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 7 is/are allowed.
6) ☒ Claim(s) 1-3, 6 and 8 is/are rejected.
7) ☒ Claim(s) 4 and 5 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by European Patent EP 427637 to Sansone et al.

Regarding Claim 1, Sansone teaches a cemetery flower holder (#1) insertable into a vase (Fig. 1 V) comprising a shaft (#1) and multiple elongated deformable extensions (#2 and English abstract) extending outwardly from the shaft with the ends (#3) thereof in abutment with the inner surface of the vase. Although Sansone teaches that elements #5 sit on top of the vase, elements #3 (the side ends of the extensions) do contact the inner surface of the vase.

Claim 8 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,368,303 to Tong.

Regarding Claim 8, Tong teaches a cemetery flower holder (Fig. 1 F) with a shaft (Fig. 4) and multiple extensions (extensions created by #27) extending outwardly from the shaft, the shaft has a base shaft (Fig. 1 #11 and up) and an upper shaft (Fig. 1 #19 and down) with a disc (Fig 1 #15) disposed there between, and a foam insert (Fig. 1 #16) enveloping a portion of the upper shaft.

Claims 1, 2, 3, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,868,787 to Wong.

Regarding Claim 1, Wong teaches a cemetery flower holder insertable into a vase comprising a shaft (#12a) and multiple elongated deformable extensions extending outwardly from the shaft (#12b) with the ends thereof inherently in abutment with the inner surface of the vase (Fig. 1 #24).

Regarding Claim 2, Wong teaches the shaft comprises a base shaft (Fig. 3 below # 50) and an upper shaft (Fig. 3 above #50) with a disc (Fig. 3 #50 disposed there between.

Regarding Claim 3, Wong teaches the upper shaft remote the disc is enlarged (Fig. 1 #12 and 12a).

Regarding Claim 6 and 8, Wong teaches a foam insert envelopes a portion of the upper shaft (#54).

Allowable Subject Matter

The indicated allowability of claim 6 is withdrawn in view of the newly discovered reference(s) to U.S. Patent No. 3,868,787 and U.S. Patent No. 3,368,303. Rejections based on the newly cited reference(s) follow.

Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 7 is allowed.

Art Unit: 3643

The following is a statement of reasons for the indication of allowable subject matter: Cited references U.S. Patent No. 3,68,303, U.S. Patent No. 3,868,787; U.S. Patent No. 3,148,480; U.S. Patent No. 3,354,580; and U.S. Patent No. 3,165,863; U.S. Patent No. 6,263,614; U.S. Patent No. 4,747,494; U.S. Patent No. 3,290,819; U.S. Patent No. 6,004,635; U.S. Patent No. 4,386,480; U.S. Patent No. 5,546,697; U.S. Patent No. 1,591,845; U.S. Patent No. 649,874; U.S. Patent No. 6,128,855; European Patent EP 427637 and French Patent FR 2620591 teach a flower holder with a shaft and multiple extensions extending outwardly from the shaft, the shaft having a base shaft and an upper shaft with a disc disposed there between, the disc comprising an outer edge. The prior art of record all fails to show, and fails to make obvious either alone and/or in combination a pair of straps extending upwardly from the outer edge.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 3, 6, and 8 have been considered but are moot in view of the new ground(s) of rejection.

Previously cited U.S. Patent No. 4,386,480 Fig. 1 and U.S. Patent No. 3,354,580 teach the limitations presented in applicant's first independent claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 3,148,480; U.S. Patent No. 3,354,580; and U.S. Patent No. 3,165,863.

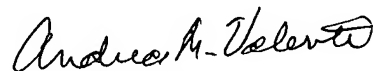
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-

Art Unit: 3643

3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

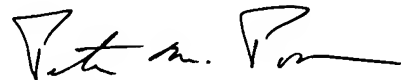
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Patent Examiner
Art Unit 3643

02 November 2004



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600